

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JOHN ROBERT DEMOS,

Petitioner,

V.

UNITED STATES SECRETARY OF
DEFENSE, *et al.*,

Respondents.

CASE NO. C20-216-RSM

REPORT AND RECOMMENDATION

Bar-order litigant John Demos has filed an application to proceed *in forma pauperis* with a proposed 28 U.S.C. § 2241 habeas petition. Dkt. 1. Although Mr. Demos purports to proceed under § 2241, he challenges his state-court conviction and therefore the proper basis for his habeas relief is 28 U.S.C. § 2254. An Order of this Court provides for the return without filing of any petition by Mr. Demos that seeks an extraordinary writ pursuant to 28 U.S.C. §§ 1651, 2253 or 2254, unless accompanied by the filing fee. *See Demos v. Stanley*, MC97-0031-JLW (W.D. Wash. Mar. 13, 1997).

As Mr. Demos has submitted no filing fee, the Court recommends that, pursuant to the Court's Order of March 13, 1997, the Clerk be **DIRECTED** to administratively close this matter and to strike any pending motions as moot. Moreover, Mr. Demos may not proceed with a second or successive habeas petition here unless and until the Ninth Circuit authorizes its filing.

1 *See* 28 U.S.C. § 2244(b)(3)(A). In addition, Mr. Demos's legal claim is absurd. Mr. Demos
2 contends that he was improperly convicted by a federal military tribunal rather than in state court
3 because President Abraham Lincoln never rescinded his 1863 declaration of martial law. Dkt. 1-
4 1, at 3. A proposed Order is attached. **The Clerk should note the matter as ready for the**
5 **District Judge's immediate consideration on February 12, 2020.**

6 DATED this 12th day of February, 2020.

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9 BRIAN A. TSUCHIDA
10 Chief United States Magistrate Judge
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